

MT LEGISLATIVE HISTORY

Chapter 3 1971 2nd Extraordinary Session

Bill H (S) 2 Original bill & hist. NAC

H. Committee on Public Health, Welfare & Safety S. Committee on Public Health, Welfare & Safety

Hearing Date(s) June 22 ☒ C

Hearing Date(s) June 16 ☒ C

June 23 ☒ C

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 ☐ C

Date Out June 23 ☒ C

June 16 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☒ No

Committee

Report

June 16, 1971

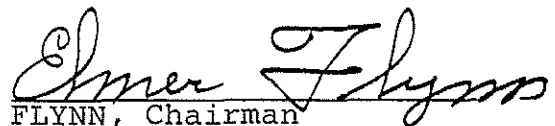
A meeting of the Public Health, Welfare, and Safety Committee was called to order by Chairman Flynn on the above date in Room 410 at 2:45 P.M. All members were present with the exception of Senator Cotton, who was excused.

The chairman called on Diana Dowling, attorney from the Governor's office, who explained EXII SB2 to the committee. The bill provides for relocation assistance to persons displaced as a result of acquisition of land for federally assisted programs. Mrs. Dowling stated the Governor's office had been contacted by the Urban Renewal people and also the Fish and Game Commission asking if Montana is in compliance with the federal law so as not to jeopardize federal funds. This law does that. The bill is modeled after the federal and recently amended state highway laws regarding the displacement of persons where there are federal funds involved.

Mrs. Dowling also noted the Attorney General issued an opinion stating it would be best for the legislature to pass legislation to assure our compliance.

Questions were fielded by the committee. Following a discussion, Senator Mitchell moved EXTRAORDINARY SESSION II SENATE BILL NO. 2 DO PASS. Seconded by Senator Bollinger. Motion carried.

There being no further business, the meeting was adjourned.


FLYNN, Chairman

PUBLIC HEALTH, WELFARE & SAFETY

DATE June

NAME	P 10
FLYNN, Elmer	P
BOLLINGER, Gordon	P
BENNETT, W. F.	P
COCHRANE, Archie	P
COTTON, Robert	
DESCHAMPS, G. W.	P
HIBBARD, Henry	P
LYNCH, Neil	P
MITCHELL, Harry	P
STEPHENS, Stan	P
VAINIO, Leonard	P

June 22, 1971

PUBLIC HEALTH, WELFARE AND SAFETY

The meeting was called to order by Chairman Keller at 3:45 p.m. Nine members of the committee were in attendance. (Absent Asbjornson, Brown, Fagg and Marbut)

Chairman Keller stated EX II SB 2 which provides for relocation assistance to persons displaced as a result of acquisition of land for federally assisted programs and provides for acquisition practices will be heard this afternoon. The chairman then introduced Sen. Flynn, chief sponsor of the bill.

Sen. Flynn stated there is a need for uniformity among the states to comply with the federal law. Montana does not comply in regard to the Urban Renewal Programs. The governor had asked the attorney general for an opinion in this matter and his letter was then read along with a letter from Joseph B. Blake, Regional Counsel, Department of Housing and Urban Development, Denver, both of which stated compliance to the federal law was necessary. Mention was made that Diana Dowling of the governor's office had drafted the bill and Sen. Turnage had researched it in great detail and asked if the committee could continue the hearing, both of these people would be willing to testify.

Following Sen. Flynn's comments a brief question and answer period followed in which the cost of this was discussed with no definite answer being given.

Chairman Keller commented the committee would have further testimony and take action on this bill tomorrow morning.

There being no further business the meeting adjourned at 4:15 p.m.


M. F. Keller
Chairman

*not to be used for signing
at 11/10/70
D. J. C. J.*

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646) was signed into law by the President on January 2, 1971. The law provides for uniform policy for treatment of persons who are displaced or have their real property taken for federal or federally assisted programs. The purpose of the bill is to eliminate the great inconsistencies that exist among federal and state agencies with respect to the amount and scope of ~~apx~~ payments, other assistance provided and assurance of housing offered.

The Act requires that states be able, by July 1, 1972, to offer substantially the same relocation benefits and advisory assistance as that required of federal agencies under the federal act. The act applies to all state and local government projects which receive federal money and which result in displacement or purchase of real property. In Montana this affects the Highway Commission, although during the regular session the highway laws were amended to conform to the federal relocation act, so part of this law is repeating what already appears in the highway laws but applies to all agencies involved rather than just the highway. The Fish and Game Commission is involved when they purchase land for fishing access, game preserves, parks, etc. Primarily, however, this act is concerned with Urban Renewal and Model City funds, all of which will be cut off July 1, 1972 if those agencies cannot show compliance with the federal law. It is possible that the agencies could comply without implementing legislation but the Attorney General of Montana has issued an opinion stating that he believes legislation to be necessary. (In Colorado they found that several Supreme Court cases prevented various agencies from complying with the federal law so it was necessary to pass state legislation.)

This bill is for all practical purposes just a rephrasing of the federal act to make it apply to Montana.

Section 1. Purpose clause - purpose is to comply with federal relocation act.

Section 2. Definitions - These are for the most part word for word from the federal act.

Section 3. Provides for moving and related expense payments be made to persons displaced by projects receiving federal financial assistance. Except in the case of certain businesses, any displaced person may elect to either (1) accept a fixed payment or (2) prove actual reasonable expenses and personal property losses. ~~It is the purpose of this act to~~ The fixed payments are designed to facilitate agreements and minimize red tape. Under ~~the~~ Section 202 (b) of the Federal Act which is referred to in subsection (2) the maximum fixed payment for moving expense is \$300 and maximum dislocation allowance is \$200 for persons displaced from a dwelling. For those persons displaced from a business or farm operation the maximum fixed ~~apx~~ payment under section 202(c) of the federal act is \$10,000 and the minimum \$2500.

Section 4. Provides for a supplement payment to any displaced person not to exceed \$315,000 (section 203 of the Federal Act) to bridge the gap, if any, between the acquisition payment for a dwelling under the eminent domain "market value" standard and the actual reasonable cost which a displaced home owner must pay for a comparable dwelling. The displaced person should not have to spend more for monthly payments of principal and interest on a mortgage for the replacement dwelling. This section also provides for a lump sum payment to compensate the displaced home owner for the present worth of the loss of favorable financing on his present mortgage.

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(1) This section⁴ also sets out the factors which must be considered when computing the amount of increased interest costs. An example of computation of payment for increased interest cost follows:

Dwelling to be acquired

Acquisition price	\$12,000
Existing Mortgage	
Interest rate	6%
remaining term	10 years
remaining principal balance	7,295.93
Monthly payment	81.02
Owner's equity	4,704.07

Available comparable dwelling

Price	\$15,000
Prevailing interest rate	8%
Supplemental payment for replacement housing cost differential	\$ 3,000
Payment for increased interest cost	\$ 700.00

Computation of payment for increased interest cost

Monthly principal and interest cost for new mortgage of \$7,295.93 for 10 years at 8 %	\$88.57
Monthly principal and interest cost for existing mortgage of \$7,295.93 for 10 years at 6% interest	81.02
Monthly interest difference	7.55
Present worth of \$7.55 monthly interest difference for 10 years, discounted at the assumed interest rate paid on savings deposits, at 5%	\$700.00
Increased interest cost payment due property owner	\$700.00

Section 4 also provides for payment to the displaced person of the amount needed to compensate him for costs of evidence of title, recording fees and other closing costs.

Section 5. This section is concerned with displaced renters, ^{not home owners} ~~not to exceed \$4,000~~ ^{over 4 years} (section 204 of the Federal Act.) to be made to a displaced person that will enable him to rent a comparable place to live. ~~Incidental~~

In order to encourage home ownership subsection (2) of this section provides that the displaced person can receive the ~~amount~~ amount necessary to make a down payment and cover expenses of ~~title~~, title recording fees and closing costs - Maximum payment may not exceed \$4,000 (section 204 of Federal Act) and if more than \$2,000 is required the tenant must match any amount in excess of \$2,000 by an equal amount of his own money.

Section 6. Provides for a relocation assistance advisory program. for persons displaced. The advisory services may be offered to people not actually displaced but who occupy property adjacent to a project area and ~~is~~ caused economic injury because of the project.

The section just spells out what types of services must be provided.

Section 7. One of the requirements under section 210 of the Federal Act ~~is that each state agency~~ in order to receive federal funding any state or local agency involved in projects which will displace people must assure the federal government that prior to such displacement there will be comparable living quarters available at comparable prices and in sufficient numbers. Section 7 ~~also~~ makes this a requirement under state law.

~~Section 8. Just provides that the payments required to be made under this act are to be included as part of the costs of the project. It also provides that when an agency purchases property and uses it as an "in-kind" contribution for a federal project for the purchase the agency must comply with this act as far as making payments to the displaced person as if the agency itself were carrying out the project~~

Section 8. Provides that the payments required to be made under the act are included as costs of the project.

Also extends the benefits of the Act to persons displaced by, or who have their real property taken for, a Federal public improvement project for which a state agency is obligated to provide the necessary lands, easements, and rights of way.

Section 9. Provides that none of the payments under the act are to be considered income for income tax or welfare purposes.

Section 10. Provides for appeal to the District Court whenever a person thinks he is eligible for assistance which he doesn't get.

Section 11. ~~Repeals the~~ Provides for uniform policies in land acquisition. The procedure follows that presently used by the Highway in condemnation cases.

Section 11. Provides for uniform procedure and policy in all land acquisition ~~for which federal funds~~ which involved federal funds. This encourages acquisition by negotiation. Makes it necessary to offer a land owner the full amount of the appraised value of the property.

identical 4

This section is ~~identical~~ to the procedures now used by the Highway Dept in condemnation cases. ~~Previously~~ It sets forth 9 policy provisions.

In arriving at the value as of the date of the appraisal the appraiser must disregard changes in value which have occurred because of the project for which the property is being acquired.

This section also provides that no one can be required to surrender possession of their property until the amount of the appraisal has been ascertained in court.

that as far as practicable every person will receive at least 90 written notice to move

Section 12. Reiterates the position that the landowner must be reimbursed for expenses incurred for recording fees, penalty costs for prepayment of any preexisting mortgage and pro rata share of real property taxes *when property is taken*

Section 13. If condemnation proceedings are begun and a judgment given that the property cannot be taken by condemnation then the landowner must be reimbursed for any attorney, appraisal or engineering fees he incurred because of the condemnation proceedings.

Section 14. Whenever a landowner has to start a court action alleging that his property has been taken for a project which is partially federally funded and the Court rules that his property was taken (inverse condemnation proceeding) the landowner must be reimbursed for attorneys fees, costs, etc.

Section 15. ~~also~~ Provides that when any interest in property is obtained for a project, the agency acquiring the property must acquire all buildings and other improvements located upon the property

Also provides for payment to a tenant of his rights to property which is taken

Section 16. Exempt agencies No payments have to be made under this act if similar payments are made under eminent domain laws (as our highway commission) when the payments have the same purpose as this act. Since the Highway laws were enacted in order to comply with the same federal act and have been ruled to be in compliance the highway would continue to operate under its own laws - unless it was found to not be in compliance then it would have to comply with this act.

June 23, 1971

PUBLIC HEALTH, WELFARE AND SAFETY

The meeting was called to order by Chairman Keller at 3:05 p.m. Nine members of the committee were in attendance. (Absent, Thomas, Fagg, Norman and Zody.)

The hearing on EX II SB 2 continued this afternoon with Senator Turnage testifying. He read from a portion of the U.S. Code Congressional and Administrative News pertaining to displacement. Congress is trying to set a uniform policy throughout the states in this regard. This law favors the landowner. The landowner has the right to accompany the government appraiser in appraisal of land and also may be furnished with a copy of the appraisal. This law will become effective July 1, 1972, throughout the country whether this bill is passed or not. Montana would just be gaining an extra year on the implementation of the law.

Following testimony there was a question and answer period in which a rather lengthy discussion commenced on the outdoor advertising signs being included in this bill. It was felt it may cost the state a considerable amount especially since another bill pertaining to outdoor advertising had passed. Also discussed was the renter of property who is not protected under this law.

Rep. Lein moved that EX II SB 2 be indefinitely postponed. Motion seconded and a hand vote taken which failed.

Rep. Marbut then made a motion that EX II SB 2 be concurred in. This motion also failed.

Rep. Marbut next moved that EX II SB 2 be placed on second reading without recommendation. A hand vote was taken and carried.

There being no further business the meeting adjourned at 3:35 p.m.


M. F. KELLER, Chairman

- ☐ DO PASS
☐ DO NOT PASS
☐ IS CONCURRED IN
☐ IS NOT CONCURRED IN
☐ IS ADOPTED
☐ IS NOT ADOPTED

STANDARD COMMITTEE REPORT

Page 22

Bill Clerk

Mr. [Name], [Title]:

We your committee on PUBLIC HEALTH, WELFARE AND SAFETY

having had under consideration EXTRAORDINARY SESSION II SENATE Bill No. 2

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR RELOCATION ASSISTANCE TO PERSONS DISPLACED AS A RESULT OF ACQUISITION OF LAND FOR FEDERALLY ASSISTED PROGRAMS AND TO PROVIDE FOR ACQUISITION PRACTICES."

Respectfully report as follows: That EXTRAORDINARY SESSION II SENATE Bill No. 2

Be placed on second reading without recommendation.

REMARKS

House Committee Report Form

[Signature]

Chairman

Section 13. Outdoor advertising contracted for prior to the enactment of this act and which under the provisions of the act becomes non-conforming shall not be regulated as such until January 1, 1972. Contracts prior to act.

Section 14. If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of this act shall not be affected thereby. Saving clause.

Section 15. Any person violating any provision of this act is guilty of a misdemeanor. Penalty.

Section 16. All outdoor advertising which does not conform to the requirements of this act are public nuisances. Public nuisance.

Section 17. Sections 32-4701 through Section 32-4714, R.C.M. 1947, are hereby repealed. Repealing clause.

Section 18. This act is effective on passage and approval. Effective date.

Approved June 24, 1971.

CHAPTER NO. 3.

An Act to Provide for Relocation Assistance to Persons Displaced as a Result of Acquisition of Land for Federally Assisted Programs and to Provide for Acquisition Practices.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. It is the purpose of this act to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms as a result of federally assisted programs, to establish uniform and equitable land acquisition policies for federally assisted programs and to comply with the federal "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970." Purpose clause.

Section 2. As used in this act, unless the context otherwise requires:

(1) "Agency" means the state of Montana, a political "Agency."

subdivision of the state or any department, agency or instrumentality of the state of Montana or of a political subdivision of the state.

"Average annual net earnings."

(2) "Average annual net earnings" means one-half ($\frac{1}{2}$) of any net earnings of a business or farm operation, before federal and state income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from real property acquired for a project of an agency (for which federal financial assistance is available to pay all or any part of the cost) or during such other period as the acquiring agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period.

"Business."

(3) "Business" means any lawful activity, excepting a farm operation, conducted primarily:

(a) for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(b) for the sale of services to the public;

(c) by a nonprofit organization; or

(d) solely for the purposes of section 3 (1) of this act, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

"Displaced person."

(4) "Displaced person" means any person who, on or after the effective date of this act, moves from real property, or moves his personal property from real property, as a result of the acquisition of such real property, in whole or in part, or as the result of the written order of an acquiring agency to vacate real property, for a program or project undertaken by the agency, for which federal financial assistance will be available to pay all or any part of the cost; and solely for the purposes of section 3 (1) and (2) and section 6 of this act, as a

result of the acquisition of, or as the result of the written order of, the acquiring agency to vacate other real property, on which such person conducts a business or farm operation, for such program or project. The term "displaced person" also includes a person who moves or discontinues his business or moves other personal property, or moves from his dwelling as the direct result of code enforcement activities, or a program of rehabilitation of buildings conducted pursuant to a federal program.

(5) "Federal act" means the "Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970" or as that act may be amended. "Federal act."

(6) "Federal financial assistance" means a grant, loan, or contribution provided by the United States except any federal guarantee or insurance. "Federal financial assistance."

(7) "Farm operation" means any activity conducted solely or primarily for the production of one (1) or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support. "Farm operation."

(8) "Person" means any individual, partnership, corporation or association. "Person."

Section 3. (1) Whenever the acquisition of real property for a program or project of an agency (for which federal financial assistance is available to pay all or any part of the cost) will result in the displacement of any person, the agency shall make payment to the displaced person, upon application as approved by the agency, for: Payment for displacement.

(a) actual reasonable expenses in moving himself, his family, business, farm operation, or other personal property;

(b) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the agency; and

(c) actual reasonable expenses in searching for a replacement business or farm.

Moving expense allowance.

(2) In lieu of payments for actual expenses and losses under subsection (1) of this section a person who is displaced from a dwelling may elect to receive a moving expense allowance determined according to a schedule established by the agency and a dislocation allowance, neither of which may exceed the maximum allowances under section 202 (b) of the federal act.

Fixed payment.

(3) In lieu of payments for actual expenses and losses under subsection (1) of this section a person who is displaced from his place of business or from his farm operation may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation provided that:

Limitation.

(a) the payment shall not be less nor more than the amounts set forth in section 202 (c) of the federal act;

Business.

(b) in the case of a business no payment shall be made under this subsection unless the acquiring agency is satisfied that the business cannot be relocated without a substantial loss of its existing patronage and is not a part of a commercial enterprise having at least one (1) other establishment not being acquired by an agency, which is engaged in the same or similar business.

Displacement from dwelling—not less than 180 days prior to acquisition.

Section 4. (1) In addition to payments otherwise authorized by this act, the acquiring agency shall make an additional payment to any displaced person who is displaced from a dwelling actually owned and occupied by such displaced person for not less than one hundred and eighty (180) days prior to the initiation of negotiations for the acquisition of the property. The additional payment shall include the following elements:

Additional payment—elements.

(a) the amount may not exceed the amount allowed under section 203 of the federal act,

(b) the amount, if any, which when added to the acquisition cost of the dwelling acquired by the agency, equals the reasonable cost of a comparable replacement dwelling which is a decent, safe, and sanitary dwelling adequate to accommodate such displaced person, reasonably accessible to public services and places of employment and available on the private market. All determinations required to carry out this subsection (b) shall be made in accordance with regulations issued by the acquiring agency.

(c) the amount, if any, which will compensate the displaced person for any increased interest costs which the person is required to pay for financing the acquisition of any comparable replacement dwelling. The amount shall be paid only if the dwelling acquired by the agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty (180) days prior to the initiation of negotiations for the acquisition of the dwelling. The amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remainder term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(d) reasonable expenses incurred by the displaced person for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a replacement dwelling which is decent, safe, and sanitary not later than the end of the one (1) year period beginning on the date on which he received from the agency final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

Section 5. In addition to amounts otherwise authorized by this act the acquiring agency shall make a payment to or for any displaced person displaced from any dwelling not eligible to receive a payment under section 4 of this act if the dwelling was actually and lawfully occupied by the displaced person for not less than ninety (90) days prior to the initiation of negotiations for acquisition of such dwelling. The payment shall be either:

Displacement from dwelling—not less than 90 days prior to acquisition.

(1) the amount necessary to enable the displaced person to lease or rent for a period not to exceed four (4) years, a decent, safe, and sanitary dwelling of standards

adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities, and reasonably accessible to his place of employment, but not to exceed the amount allowable under section 204 of the federal act; or

(2) the amount necessary to enable such person to make a down payment (including reasonable expenses for evidence of title, recording fees, and other closing costs incident to the purchase of a dwelling, but not including prepaid expenses) on the purchase of a decent, safe, and sanitary dwelling of standards adequate to accommodate such person in areas not generally less desirable in regard to public utilities and public and commercial facilities. The amount payable under this subsection (2) shall not exceed the amount allowable under section 204 of the federal act and shall be subject to the same matching requirements as under said section.

Relocation
assistance advisory
program.

Section 6. (1) Whenever the acquisition of real property for a program or project of an agency (for which federal financial assistance is available to pay all or any part of the cost) will result in the displacement of any person, the agency shall provide a relocation assistance advisory program for displaced persons which offers the services described in this section. If the acquiring agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services.

Services.

(2) The relocation advisory service may include such budget, debt management and related counseling services as the acquiring agency determines will assist the displaced person. The relocation assistance program shall include such measures, facilities, or services as may be necessary or appropriate in order to:

(a) determine the need, if any, of displaced persons, for relocation assistance;

(b) provide current and continuing information on the availability, prices, and rentals of comparable decent, safe, and sanitary sales and rental housing, and of comparable commercial properties and locations for displaced businesses;

(c) assist a displaced person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(d) supply information concerning federal and state housing programs, disaster loan programs and other federal or state programs offering assistance to displaced persons; and

(e) provide other advisory services to displaced persons in order to minimize hardships to displaced persons in adjusting to relocation;

(f) secure the coordination of relocation activities with other project activities and other planned or proposed federal or state actions in the community or nearby areas which may affect the relocation program.

(3) In order to prevent unnecessary expenses and duplication of functions and to promote uniform and effective administration of relocation assistance programs, an agency may enter into contracts with any individual, firm, association, or corporation for services in connection with such programs, or may carry out its functions under this act through any federal or state agency having an established organization for conducting relocation assistance programs. Each agency whenever practicable, shall utilize the services of state or local housing agencies, or other agencies having experience in the administration or conduct of similar housing assistance activities.

Contracts for assistance.

Section 7. Whenever the acquisition of real property for a program or project of an agency (for which federal financial assistance is available to pay all or any part of the cost) will result in the displacement of any person, the agency shall assure that, within a reasonable period of time, prior to displacement there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as defined by the federal agency concerned with administering the federal financial assistance, equal in number to the number of and available to such displaced persons who require such dwellings and reasonably accessible to their places of employment.

Dwellings for displaced persons.

Project cost.

Section 8. The acquiring agency shall include the cost of providing payments and assistance under the provisions of this act in the cost of any project for which federal financial assistance is available to pay all or any part of the cost. The acquiring agency shall also provide the payments and assistance and assure the availability of replacement housing for displaced persons, who are displaced as a result of real property being acquired by an agency and furnished as a required contribution incident to a federal program or project.

Section 9. No payment received by a displaced person under this act shall be considered as income or resources for the purpose of determining the eligibility of any person for assistance under any state law or for the purposes of determining income under state tax laws.

Judicial review.

Section 10. Any person aggrieved by final administrative determination concerning eligibility for relocation payments authorized by this act may appeal such determination to the district court of the county in which the land acquired is located.

Policies of agencies involved.

Section 11. An agency which acquires real property for a program or project for which federal financial assistance will be available to pay all or any part of the cost of such program or project shall comply with the following policies:

(1) The agency shall make every reasonable effort to acquire expeditiously real property by negotiation.

(2) Real property shall be appraised before the initiation of negotiations, and the owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(3) Before the initiation of negotiations for real property, an amount shall be established which it is reasonably believed is just compensation therefor and such amount shall be offered for the property. In no event shall such amount be less than the approved appraisal of the fair market value of such property. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for

such improvement, other than that due to physical deterioration within the reasonable control of the owner, shall be disregarded in determining the compensation for the property. The owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation. Where appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated.

(4) No owner shall be required to surrender possession of real property before the agreed purchase price is paid or before there is deposited with the court, in accordance with applicable law, for the benefit of the owner, an amount not less than the approved appraisal of the fair market value of such property, or the amount of the award of compensation in the condemnation proceeding of such property.

(5) The construction or development of a program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling will be available) or to move his business or farm operation without at least ninety (90) days written notice of the date by which such move is required.

(6) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination by the acquiring agency on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(7) In no event shall the time of condemnation be advanced, or negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other action coercive in nature be taken to compel an agreement on the price to be paid for the property.

(8) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring

agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(9) If the acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire the entire property shall be made.

Deposit of money
into court.

Section 12. Any agency acquiring real property for a program or project for which federal financial assistance will be available to pay all or any part of the cost of the program or project shall, as soon as practicable after the date of payment of the purchase price or the date of deposit into court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, reimburse the owner, to the extent the acquiring agency deems fair and reasonable, for expenses he necessarily incurred for recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the acquiring agency; penalty costs for prepayment for any preexisting recorded mortgage or deed of trust entered into in good faith encumbering such real property; and the pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the acquiring agency, or the effective date of possession of such real property by the acquiring agency, whichever is the earlier.

Award of costs
incurred by
condemnation
proceedings.

Section 13. Where a condemnation proceeding is instituted by an agency to acquire real property for a program or project for which federal financial assistance is available, and the final judgment is that the real property cannot be acquired by condemnation or that the proceeding is abandoned, the owner of any right, title, or interest in such real property shall be paid such sum as will, in the opinion of the court, reimburse such owner for his reasonable attorney, appraisal, and engineering fees, actually incurred because of the condemnation proceedings. The award of such sums will be paid by the agency which sought to condemn the property.

Inverse
condemnation
proceedings.

Section 14. Where an inverse condemnation proceeding is instituted by the owner of any right, title, or interest in real property because of the alleged taking of his property for any program or project for which federal financial assistance will be available to pay all or any

part of the cost of the program or project, the court, rendering a judgment for the plaintiff in such proceeding and awarding compensation for the taking of property, or attorney for the acquiring agency effecting a settlement of any such proceeding, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will, in the opinion of the court or such attorney, reimburse such plaintiff for his reasonable costs, disbursements, and expenses including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

Section 15. (1) Where any interest in real property is acquired for a program or project for which federal assistance will be available to pay all or any part of the cost of the program or project, the acquiring agency shall acquire an equal interest in all buildings, structures, or other improvements located upon the real property so acquired and which are required to be removed from such real property or which the acquiring agency determines will be adversely affected by the use to which such real property will be put.

Determination of compensation.

(2) For the purpose of determining the just compensation to be paid for any building, structure, or other improvement required to be acquired by subsection (1) of this section, such building, structure, or other improvement shall be deemed to be a part of the real property to be acquired notwithstanding the right or obligation of a tenant, as against the owner of any other interest in the real property, to remove such building, structure, or improvement at the expiration of his term, and the fair market value which such building, structure, or improvement contributes to the fair market value of the real property to be acquired, or the fair market value of such building, structure, or improvement for removal from the real property, whichever is the greater, shall be paid to the tenant therefor.

Payment for such buildings, structures, or improvements as set forth in this subsection (2) shall not result in duplication of any payments otherwise authorized by state law. No such payment shall be made unless the owner of the land involved disclaims all interest in the improvements of the tenant. In consideration for any such payment the tenant shall assign, transfer, and release

all his right, title, and interest in and to such improvements. Nothing in this subsection (2) shall be construed to deprive the tenant of any rights to reject payment and to obtain payment for such property interests in accordance with other laws of the state.

Eminent domain awards.

Section 16. No payment or assistance provided for in this act shall be required to be made by an agency if the displaced person receives a payment required by the laws of eminent domain which is determined by the agency to have substantially the same purpose and effect as such payment under this act.

Clarifying clause.

Section 17. (1) The provisions of section 7 of this act create no rights or liabilities and shall not affect the validity of any property acquisition by purchase or condemnation.

(2) Nothing in this act shall be construed as creating in any condemnation proceedings brought under the power of eminent domain any element of value or damage not in existence immediately prior to the effective date of this act.

(3) Nothing in this act shall be construed as, directly or indirectly, granting any new or additional power of eminent domain.

Act not to apply—when.

Section 18. This act shall apply to all acquisitions of real property by an agency for a program or project for which federal financial assistance is available to pay all or any part of the cost.

Approved June 25, 1971.

CHAPTER NO. 4

An Act to Fix Salaries for the District Court Judges; Amending Section 93-303, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 93-303, R.C.M. 1947, is amended to read as follows:

Salaries of district judges.

“93-303. **Salaries of district judges.** The annual salary of each district judge shall be *twenty thousand five hundred dollars (\$20,500)*, beginning July 1, 1971.”

Approved June 29, 1971.